THE HONOURABLE SRI JUSTICE N.V.RAMANA

WRIT PETITION No. 27441 of 1996

DATED: 31-1-2007

Between:

V.Nageswara Rao

…Petitioner

and

The Director,
Insurance Medical Services,
Andhra Pradesh, Hyderabad.

…Respondent

THE HON'BLE SRI JUSTICE N.V.RAMANA

W.P.No. 27441 of 1996

Oral order:

The petitioner filed this writ petition to declare the order dated 14.02.1996 passed by the respondent negativing the claim of the petitioner for reimbursement of his medical bills.

The petitioner is an employee of W.R.S. Bearing Ltd., Uppal. He contributed to the Employees State Insurance. The petitioner states that he has suffered severe stomach pain on 22-9-1995 at about at about 1.00 A.M., and was immediately rushed to a private hospital by name ADRM Hospital, Ramanthapur. The petitioner states that if an employee, who subscribes to ESI falls ill, he has to first approach any of the three ESI hospitals located at Ramanthapur, Ranigunj and Sanathnagar for treatment.

The petitioner states that since the ESI hospital at Ramanthapur works between 9.00 A.M. and 1.00 P.M. and between 4.00 P.M. and 7.00 P.M. he obviously could not go to the said hospital and had to take treatment in a private hospital at Ramanthapur. On the next day, the doctors at the said hospital, referred him to Medinova, where he underwent several tests, and ultimately on 12-10-1995, he was operated upon by Dr. Narasayya for removing the gall bladder stone.

The petitioner states for removal of the stone, he had incurred a sum of Rs.17,593-75 ps. towards treatment, and accordingly for reimbursement of the said amount, he made a representation to the respondent duly enclosing the relevant medical bills, but the respondent, by reason of the impugned order dated 14.02.1996, negatived the claim on the ground that reimbursement claim was not admissible as per the ESI Act and the Rules, since he had taken

treatment in a private hospital. Aggrieved by the said order, the petitioner filed the present writ petition.

The learned counsel for the petitioner submitted that petitioner suffered severe stomach pain at an odd hour in the night, and having regard to the fact that the ESI hospital at Ramanthapur is closed during the nights and the ESI hospital at Sanathnagar though works during the nights is not equipped with proper medical facilities and the patients there are treated by trainee doctors, his family members admitted him to a private hospital for treatment, where he incurred some amount for treatment. Since the claim of the petitioner for reimbursement of his medical bills is genuine, which is supported by the medical bills, the respondent could not have negatived the claim of the petitioner for reimbursement of the amounts incurred by him for treatment. He thus prayed that the impugned order be set aside and the writ petition be allowed.

The respondent filed counter. The learned Government Pleader for Medical and Health reiterating the counter averments submitted that the ESI hospitals at Kavadiguda and Sanathnagar, provide services round the clock. The petitioner should have approached any of the two hospitals, but he did not do, and instead he was admitted in a private hospital. He submitted that as per the Rules and Regulations contained in the ESI Medical Manual, only in serious cases like accidents/illness where the patient was directly admitted in a private or non-recognized hospital, if admission in a recognized hospital, would have jeopardized the health of the patient due to heart attacks, fracture of the spine and cerebral hemorrhage, the expenses incurred for the treatment is allowed, and not otherwise. He, thus contended that the respondent had rightly negatived the claim of the petitioner for medical reimbursement.

Heard the learned counsel for the petitioner and the learned Government Pleader for Medical and Health for the respondent.

The petitioner, who suffered severe stomach pain during the

night, admittedly, was admitted into a private hospital. As per the Rules and Regulations contained in the Medical Manual, the employees have to first approach any of the ESI hospitals, and on reference by the Doctors there, they can take treatment in a private hospital. The petitioner, admittedly, instead of being taken to a ESI hospital, was taken to a private hospital. Though the petitioner contends that except the ESI hospital at Sanathnagar, no other hospital works round the clock, and that the same is not equipped with proper medical facilities and that the patients at the hospital are treated by trainee doctors, the same is disputed by the respondent contending that there are facilities and that another hospital at Kavadiguda works round the clock. Be that as it may, merely on the basis of newspaper reports, the petitioner cannot contend that the patients at the ESI hospital are treated by trainee doctors.

The nature of pain, namely stomach pain suffered by the petitioner, is not covered by the Rules and Regulations contained in the Medical Manual, entitling him to take treatment directly in a private hospital. The treatment for stomach pain can be taken in a private hospital only on reference by the ESI Doctors and only if facilities for the treatment thereof are not available in ESI hospitals. The Rules and Regulations contained in the Medical Manual envisage taking of treatment directly in a private and non-recognized hospital only in cases of accidents, sudden heart attacks, fracture of the spine, cerebral haemorrhage, and not otherwise, and since the stomach pain suffered by the petitioner, and the consequent operation underwent by him for removal of gall bladder stone, is not covered by emergency treatment in a private or non-recognized hospital directly without being referred to by the Doctors at ESI hospitals, no exception can be taken to the order passed by the respondent negativing the claim of the petitioner for reimbursement of the medical bills.

The writ petition is devoid of merit, and the same is accordingly dismissed.

N.V.RAMANA, J

31st January, 2007

GRR